

**IN THE UNITED STATES COURT OF APPEALS
FOR VETERANS CLAIMS**

RICARTE A. SOLIBEN,)	
)	
Appellant,)	
)	
v.)	Vet. App. No. 14-3240
ROBERT A. MCDONALD,)	
Secretary of Veterans Affairs,)	
)	
Appellee.)	

APPELLEE’S RESPONSE TO THE COURT’S MAY 24, 2016, ORDER

Appellee, Robert A. McDonald, Secretary of Veterans Affairs, respectfully responds to the Court’s May 24, 2016, Order. Specifically, following the May 11, 2016, oral argument, the United States Court of Appeals for Veterans Claims (“Court”) directed the Secretary to provide the following information:

- 1) For the time period between May 23, 2014 (the date of the Board of Veterans’ Appeals (“Board”) decision before the Court), and September 23, 2014 (the date that Appellant, Ricarte A. Soliben, filed his Notice of Appeal (“NOA”)), whether the Department of Veterans Affairs (“VA”) had any regulations, rules, policies, or procedures, in place regarding the Board’s process for responding to an appellant who notifies the Board that a copy of its decision has not been received due to a change in address and requests a copy of that Board decision;
- 2) The Board’s target time frame to respond to requests to mail a Board decision to a newly received address for the period from May 1, 2014, to September 30, 2014;
- 3) The average time it took the Board to respond to such requests from May 1, 2014, to September 30, 2014; and
- 4) Whether the target and average response times described in response to the above questions vary depending on whether the request for the Board decision was received within 120 days after the date that the Board mailed its decision and the degree of that variance, if any.

Court's May 24, 2016, Order.

In response to the above questions, the Secretary respectfully submits the June 3, 2016, Declaration from Barbara C. Morton ("Declaration"), the Director of the Office of Management, Planning and Analysis of the Board. See Declaration attached hereto as Exhibit ("Ex.") 1. In respect to the Court's first question as to whether, for the time period from May 23, 2014, to September 23, 2014, there were relevant VA regulations, rules, policies, or procedures in place regarding the Board's process for responding to an appellant who notified the Board that a copy of the Board decision had not been received due to a change in address and requested a copy of the Board decision, Ms. Morton noted that the Chairman's Memorandum 01 06-09, Mailing Board of Veterans' Appeals Decisions, dated March 29, 2006, governs the dispatch of Board decisions. See Declaration at 1-2. Pursuant to the Chairman's Memorandum 01 06-09, paragraph 8, if a Board decision is returned as undeliverable, the Board staff must: 1) check for updated contact information; 2) prepare a Report of Contact (VA Form 119); and 3) if a new address is located, send the Board decision and the cover letter to the new address. See Declaration, Ex. A at 7-8.

Although the Chairman's Memorandum 01 06-09 directly addresses a situation where the mail is returned as undeliverable, these guidelines do not directly address a situation where mail to an appellant is not returned as undeliverable. However, they would nevertheless be instructive as guidance for preparing correspondence when an appellant provides notice to the Board that a

copy of the Board decision has not been received due to a change in address and requests a copy of the Board decision. See *generally* Declaration, Ex. A.

Additionally, Ms. Morton explained that in accordance with the September 2011 Office of Management, Planning and Analysis Correspondence Guide, where an appellant requests another copy of the Board's decision, the Board is instructed that a template entitled "Dispatch Cover Letter-Request to Re-mail Decision" should be used to answer the request with a copy of the decision. See *Declaration*, Ex. B. at 10. A copy of the template letter is attached to the Declaration. See Declaration, Ex. C.

As Ms. Morton acknowledges in the June 3, 2016, Declaration, neither the Chairman's Memorandum 01 06-09, nor the September 2011 Office of Management, Planning and Analysis Correspondence Guide, provide any time frame for the Board to resend a copy of the Board decision necessitated by receipt of undeliverable mail or a request for a copy of a Board decision following a newly identified address. Declaration at 2. Therefore, the relevant VA policies and procedures in place from May 23, 2014, to September 23, 2014, do not provide specific guidance as to the time frame in which a copy of the Board decision should be resent where an appellant provided VA with a new address and requested a copy of the Board decision. See *generally*, Declaration at 1-3, Exs. A-C.

In response to the Court's second question regarding whether the Board had a target time frame in which to respond to requests to mail a Board decision

to a newly received address from May 1, 2014, to September 30, 2014, pursuant to Ms. Morton's Declaration, the Board did not have a target time frame in which to respond to requests to send a Board decision to a newly received address from May 1, 2014, to September 30, 2014. Declaration at 2.

In respect to the Court's third question regarding the average time it took the Board to respond to requests to send a Board decision to a newly received address from May 1, 2014, to September 30, 2014, Ms. Morton's Declaration provides a succinct response. Declaration at 2. Pursuant to Ms. Morton's review of the Board's computerized tracking system, *i.e.*, the Veterans Appeals Control and Locator System ("VACOLS"), from May 1, 2014, to September 30, 2014, the Board's average response time was 34.6 days, *i.e.*, the average number of days from the date of an appellant's request to resend the Board decision, or the date of receipt of undeliverable mail, to the date that the Board decision was resent. Ex. 1 at 2. The average response time of 34.6 days was calculated based on 1,349 cases from May 1, 2014, to September 30, 2014, where either an appellant requested that the Board resend a decision to a newly received or newly identified address, or the mail was returned as undeliverable. *Id.*

Finally, Ms. Morton directly addressed, in response to the Court's fourth and final question, whether the average response time described above varied depending on whether a new address was received or identified within 120 days from initial dispatch, or whether it was received outside the 120-day period. *Id.* Pursuant to Ms. Morton's Declaration, upon a review of VACOLS from May 1,

2014, to September 30, 2014, the average response time, 34.6 days, varied based on whether a new address was received or identified within 120 days from the initial dispatch. Declaration at 2. During the critical five month period, the Board received 1,303 requests for remailing or cases where the Board decision was returned as undeliverable within 120 days from the initial dispatch of the Board decision. *Id.* The Board also received 46 requests for remailing of the Board decision and/or Board decisions returned as undeliverable, outside of the 120-day period. *Id.* On average, the decisions were resent 34.9 days after the initial dispatch when a new address was received or identified within 120 days of the initial dispatch, and 26.7 days after initial dispatch when a new address was received and identified outside of the 120-day period. *Id.* Therefore, there was a variance of 8.2 days between the two identified time periods. *Id.*

WHEREFORE, Appellee, Robert A. McDonald, Secretary of Veterans Affairs, respectfully responds to the Court's May 24, 2016, Order.

Respectfully submitted,

LEIGH A. BRADLEY
General Counsel

MARY A. FLYNN
Chief Counsel

/s/ James B. Cowden

JAMES B. COWDEN
Deputy Chief Counsel

/s/ Kristen D. King-Holland

KRISTEN D. KING-HOLLAND
Appellate Attorney
Office of the General Counsel
U.S. Dept. of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420
(202) 632-6945

Attorneys for Appellee
Secretary of Veterans Affairs

EXHIBIT 1

copy of this memorandum is attached as Exhibit A. As outlined in instruction eight (8) of this memorandum, for any Board decision that is returned as undeliverable, Board staff must check for updated contact information, prepare a Report of Contact (VA Form 119), and, if any new address is located, re-mail the Board's decision and cover letter to that new address.

4. The Office of Management, Planning and Analysis Correspondence Guide, dated September 2011, provides instruction on the generation of Board correspondence. A copy of this guide is attached as Exhibit B. Page 10 of this document instructs that when the Board has dispatched a decision and subsequently receives a request for another copy of that decision, a template titled "Dispatch Cover Letter – Request to Re-mail Decision" should be used to answer that request with a copy of the decision. A copy of this template letter is attached as Exhibit C.

5. Neither the Chairman's Memorandum 01 06-09, nor the Office of Management, Planning and Analysis Correspondence Guide, provide any time frame for the re-mailing of a Board decision necessitated by receipt of undeliverable mail or a request for another copy of a decision. The Board did not, from May 1, 2014, to September 30, 2014, have a target response time for answering requests to mail a Board decision to a newly received address.

6. Based on my review of the information available in the Veterans Appeals Control and Locator System (VACOLS) (the Board's computerized tracking system), I can determine the average response time (from the date of request for re-mailing / date of receipt of undeliverable mail) for re-mailing of Board decisions. From May 1, 2014, to September 30, 2014, the Board received 1,349 requests for remailing / Board decisions returned as undeliverable. It took Board staff an average of 34.6 days to re-mail a Board decision to a newly received / identified address.

7. Further based on my review of the information available in VACOLS, I can affirm that, from May 1, 2014, to September 30, 2014, the average response time described in paragraph six (6) varied based on whether a new address was received or identified within 120 days from initial dispatch. From May 1, 2014, to September 30, 2014, the Board received 1,303 requests for remailing / Board decisions returned as undeliverable within 120 days from initial dispatch, and 46 requests for remailing / Board decisions returned as undeliverable outside of 120 days of the initial dispatch. On average, decisions were re-mailed: 34.9 days after initial dispatch when a new address was received / identified within 120 days of the initial dispatch; 26.7 days after initial dispatch when a new address was received / identified outside of 120 days of the initial dispatch.

8. I certify under the penalty of perjury that the foregoing is true and correct.

Executed on the 3 day of June 2016.



BARBARA C. MORTON

EXHIBIT A

Office of the Chairman
Board of Veterans' Appeals
Washington, D.C. 20420



Date: March 29, 2006

MEMORANDUM
NO. 01-06-09

SUBJ: MAILING BOARD OF VETERANS' APPEALS DECISIONS

1. REFERENCES

- a. 38 U.S.C. § 7104(e) (West 2002); 38 C.F.R. § 20.1100(a) (2005).
- b. *Sthele v. Principi*, 19 Vet. App. 11 (2004).
- c. *Davis v. Brown*, 7 Vet. App. 298 (1995).
- d. *Trammel v. Brown*, 6 Vet. App. 181 (1994).
- e. VA Directive 6340, *Mail Management* (October 11, 1996).

2. PURPOSE

The Board of Veterans' Appeals (BVA or Board) has a statutory obligation to mail a copy of its written decision on a case to the claimant and to promptly provide a copy of that decision to the authorized representative, if any. In *Sthele v. Principi*, 19 Vet. App. 11 (2004), the United States Court of Appeals for Veterans Claims (Court) questioned the Board's procedures for mailing Board decisions. The purpose of this Chairman's Memorandum is to update current procedures related to mailing Board decisions, to set forth new procedures for including a cover letter with each mailed decision, and to ensure the regularity of the Board's mailing procedures. The Board is also rescinding Chairman's Memorandum No. 01-97-01, "Distribution of BVA Decisions under the Veterans Benefits Improvement Act of 1996."

3. BACKGROUND

a. **Statutory Requirement.** Pursuant to 38 U.S.C. § 7104(e), after reaching a decision on a case, the Board shall promptly mail a copy of its written decision to the claimant at the last known address of the claimant. If the claimant has an authorized representative, the Board shall mail a copy of its written decision to the authorized representative at the last known address of the authorized representative; or send a copy of its written decision to the authorized representative by any means reasonably likely to provide the authorized representative with a copy of the decision within the same time a copy would be expected to reach the authorized representative if sent by first-class mail. 38 U.S.C. § 7104(e).

b. ***Sthele.*** The issue in *Sthele v. Principi*, 19 Vet. App. 11 (2004), was whether the appellant had filed a timely notice of appeal (NOA) with the Court. The Court found that the presumption of regularity applicable to mailing Board decisions had been rebutted by clear evidence and that the Secretary had failed to meet his burden of demonstrating that a copy of the Board's decision was mailed to the appellant at his proper address.

4. ADDRESS

a. **Management and Administration (M&A) Staff.** M&A staff will follow their established procedures for ensuring that the claimant's most recent address is properly recorded in the Board's electronic database, the Veterans Appeals Control and Locator System (VACOLS). If the claimant has a representative other than a Veterans Service Organization (VSO), M&A staff will also follow their established procedures for ensuring that the representative's most recent address is properly recorded in VACOLS.

b. **VACOLS.** Both current and historical address information are stored in VACOLS. The address tab contains a field that displays the claimant's current address. If the claimant is represented by an individual other than a VSO, such as a private attorney, the representative's address is also accessible through the address tab. Address data is initially entered by field personnel, and updated as necessary by authorized Board staff. For letters and mailing labels that are automatically generated by VACOLS, the address information on the letter or label is automatically pulled from the address tab and transferred to the letter or label. VACOLS retains an electronic copy of the Board decision issued in every appeal. The electronic decision links to a "details" screen, which preserves the historical information as to the claimant's mailing address to which a decision was mailed.

5. PROCEDURES FOR THE DISPATCH OF BOARD DECISIONS

a. **M&A Staff.** In preparing a case for dispatch, M&A staff will review the Board decision to ensure that the following requirements are met:

- (1) The claimant's name and file number are correctly cited in the decision;
- (2) All pages of the decision are present, and the pages are sequential;
- (3) If the claimant is represented, the correct representative is identified in the Board decision;
- (4) The Veterans Law Judge (VLJ) signed the last page;
- (5) If any part of the Board decision is final, a "Notice of Appellate Rights" is associated with the decision; and,
- (6) If the Board decision involves a non-routine case (such as a simultaneously contested claim) or a case with Congressional interest, appropriate steps are initiated to ensure proper handling of the case. See §§ 6 & 7.

b. **Outstanding Mail.** M&A staff will ensure that there is no outstanding mail on the case. If it is discovered that there is any outstanding mail, the mail must be obtained and reviewed to determine the appropriate actions to be taken.

(1) If the outstanding mail is found to contain information or evidence relevant to a claim addressed in the Board's decision, the mail and the claims file *must be returned to the VLJ that signed the decision* for consideration as to whether additional action is warranted, unless the mail consists of material that is clearly duplicative of evidence already in the claims file. For example, if the mail contains a photocopy of a document already associated with the record, the evidence would be considered clearly duplicative of evidence already in the claims file and need not be returned to the VLJ. Similarly, mail that consists of a status inquiry likely does not need to be returned to the VLJ for review.

(2) If the outstanding mail does not contain information or evidence relevant to any claim addressed in the Board's decision, M&A staff will follow their established procedures for handling mail. After all outstanding

mail is properly handled, M&A staff will continue to follow the dispatch procedures outlined in this memorandum.

c. **Cover letter.** Multiple copies of a cover letter are automatically generated by VACOLS, and a copy of the undated letter automatically attaches to VACOLS. M&A staff will associate a copy of that cover letter with each copy of the Board decision. The cover letter will identify the address to which the copy of the Board decision will be sent (i.e., the claimant's last known address of record). If the claimant is represented, the cover letter will include a "cc" with the representative's name and address. If the representative is a VSO, the "cc" will list the name of the VSO but not the address. *See 38 U.S.C. § 5902(c)(2).* The cover letter must be date stamped with the *same* date as the Board decision, and a copy of that cover letter must be filed in the claims file with the Board decision. *See ¶ 5(d).* *NOTE: For non-routine cases, such as simultaneously contested claims and insurance cases, a manual cover letter must be created, for privacy reasons. See ¶ 6 for guidance.*

d. **Dating of Decision.** All decisions of the Board will be stamped with the date of mailing on the face of the decision. 38 C.F.R. § 20.1100(a). The date stamped on the front of the decision and accompanying cover letter will be the date of mailing of the decision to the claimant and, if applicable, to the representative. If M&A staff utilizes another means of delivery of the representative's copy of the Board's decision, it will place the representative's copy of the decision into the alternate delivery system on the *same day* that the claimant's copy of the decision is mailed.

(1) **Cut Off Time for Dating of Decision.** The Director of Management and Administration (Director) will set a cut off time for the dating of Board decisions and cover letters on each work day. The cut off time should be calculated to ensure that Board decisions will be delivered to the U.S. Postal Service on the *same* business day that they are delivered to the Department of Veterans Affairs Central Office (VACO) mail room. *See ¶ 5(h).*

(2) **Dating of Decision After Cut Off Time.** Following the established cut off time for dating Board decisions and cover letters, the date stamp must be rolled over to the next business day. Under no circumstances will decisions be stamped with dates falling on weekends or Government holidays.

e. **Mailing Envelopes.** All decisions and cover letters released from the Board will be enclosed in an appropriate mailing envelope. M&A staff will

date stamp the lower left corner of the envelope with the same date that appears on the Board decision and cover letter. *See* ¶ 5(d).

f. **Delivery of Decision to Claimant.** M&A staff will mail the claimant's copy of the Board's decision and the cover letter to his or her last known address. 38 U.S.C. § 7104(e)(1). *See* ¶¶ 4, 5(h), 5(i).

g. **Delivery of Decision to Authorized Representatives.** M&A staff shall mail a copy of the Board's decision with the cover letter to the authorized representative at the last known address of the authorized representative. Or, M&A staff shall send a copy of the Board decision with the cover letter to the authorized representative by any means reasonably likely to provide the representative with a copy of the decision within the same time a copy would be expected to reach the representative if sent by first-class mail. 38 U.S.C. § 7104(e)(2).

(1) **Non-VSO Representative (i.e. private attorney).** M&A staff will mail the authorized representative a copy of the Board's decision and the cover letter to his or her last known address. 38 U.S.C. § 7104(e)(2). *See* ¶¶ 4, 5(h), 5(i).

(2) **Veterans Service Organization (VSO) Representative.**

1. Generally. Except as provided in the following subparagraph, M&A staff will send the representative's copy of the Board's decision and cover letter to the address designated by the VSO. *See* 38 U.S.C. § 5902(c)(2).

2. Claimant Specifically Requests Representative Only by Named, Recognized VSO Representative. Under 38 U.S.C. § 5902(c), a claimant may limit his or her appointment of a representative to appointment of a particular recognized VSO representative. Such a limitation must be in the power of attorney and must indicate a specific desire that "only" that person represent the claimant. In those cases, M&A staff will send the representative's copy of the decision and cover letter to his or her last known address.

3. Courtesy Copies. Where a VSO is the authorized representative, M&A staff will, as a courtesy, forward a copy of the Board's decision and the cover letter to the representative's local field office through the Agency of Original Jurisdiction (AOJ) using the "flat mail" procedure. In cases in which the claimant has

specifically indicated that he or she wishes to be represented only by a named, recognized VSO representative, M&A staff will send a courtesy copy of the decision to the VSO at the address at which the VSO indicated it wishes to receive notices of actions taken by BVA. "Flat mail" refers to the procedure whereby a copy of the Board decision and cover letter is mailed to the AOJ from which the claim originated, which, in turn, is responsible for delivering the copy to the local office of the representative. *See Trammel v. Brown*, 6 Vet. App. 181, 182-83 (1994). This "flat mail" procedure is also referred to by M&A staff as "red arrow" mail.

h. **Delivery of Board Decisions to the U.S. Postal Service.** Board decisions must be correctly addressed, stamped with the proper postage, and delivered directly by the Board into the custody of the U.S. Postal Service. *See Davis v. Brown*, 7 Vet. App. 298, 303 (1994). The delivery of Board decisions into custody of the U.S. Postal Service is executed by the VACO mail room in accordance with the Department of Veterans Affairs Mail Management Program, which implements provisions found in the Federal Property Management Regulations. The Mail Management Program is designed to provide rapid handling and accurate delivery of mail throughout the Department at a minimum cost consistent with mission requirements. *See VA Directive 6340* (October 11, 1996).

i. **Mailing Procedures.** The Director will designate an employee and alternate(s) to deliver the envelopes of date-stamped Board decisions and cover letters to the VACO mail room each day. Only designated employees may deliver mail to the VACO mail room. *See* ¶ 5(h).

(1) **Cut off Time for Delivering Decisions to VACO Mail Room.** The Director will set a cut off time by which all dated Board decisions and cover letters must be delivered to the VACO mail room. In the event that a Board decision and cover letter does not reach the VACO mail room by the cut off time, the Board decision, cover letter, and envelope must be re-dated for the next business day.

(2) **Periodic contact with VACO Mail Room Manager.** The Director will periodically communicate with the VACO Mail Room Manager, as is necessary, to ensure that the mail room staff is aware of the Board's requirement to mail decisions on the same day as the date stamp on the decision and cover letter. The Director will instruct the mail room staff to return to the Board any decisions that were not mailed the same day as the date stamp, so that they may be re-dated for the next mailing day.

6. NON-ROUTINE CASES

a. **Simultaneously Contested Claims.** These claims typically involve multiple parties. It is a violation of the Privacy Act to reveal one party's address to the other party. Consequently, cover letters for these claims must be completed **manually**. It is appropriate to list the name of the other party in the "cc" field, but the address of one party may not be revealed to another party. If any party has a representative, that representative must receive a copy of the cover letter and decision. After preparing the manual cover letter and making the necessary number of copies, follow the mailing procedures outlined above in paragraph 5(d)–(i) of this memorandum.

b. **Multi-Decisions.** In situations where the Board issues multiple decisions in the same appeal (example: when appeals arise from different agencies of original jurisdiction) please ensure that the claimant and representative, if any, are each mailed copies of *all* decisions. Ensure that a cover letter is sent with each copy of a decision, and follow the procedures for mailing set forth in paragraph 5 of this memorandum.

c. **Insurance Appeals.** Carefully review the record to determine the number of parties involved in the appeal, and the number of copies required to correctly dispatch the decision. Insurance Appeals are a type of simultaneously contested claim, therefore, the same rules regarding privacy apply. In other words, the address of one party may not be released to another party. Consequently, the cover letters must be created manually, using the established sample language for these types of claims. **NOTE: All decisions with insurance issues must be dispatched by certified mail with special insurance cover letters attached to the paper copy of all copies of the decision.** A copy of the insurance cover letters mailed must be attached in VACOLS, and placed in the claims file.

7. CONGRESSIONAL INTEREST

If there is Congressional interest in a case, to include Congressional liaison interest, ensure that a copy of the Board decision is mailed to the interested Congressperson or liaison. **NOTE: A Congressional transmittal letter should be used in place of the automatic cover letter.** A copy of the transmittal letter should be attached in VACOLS, and associated with the claims file.

8. RETURNED (UNDELIVERABLE) MAIL

For any Board decision that is returned as undeliverable, M&A staff should follow the Board's established policy for returned mail, which includes checking various resources for updated contact information, and preparing a VA Form 119,

Report of Contact, to document any such efforts. If a new address is found, the Board decision *and* cover letter must be mailed to that new address along with a transmittal letter that contains language indicating that this is a second mailing attempt.

9. RESCISSION

a. Chairman's Memorandum No. 01-97-01, "Distribution of BVA Decisions under the Veterans Benefits Improvement Act of 1996," is hereby rescinded in its entirety.

b. This memorandum is effective until expressly rescinded, modified, or superseded.

James P. Terry
Chairman

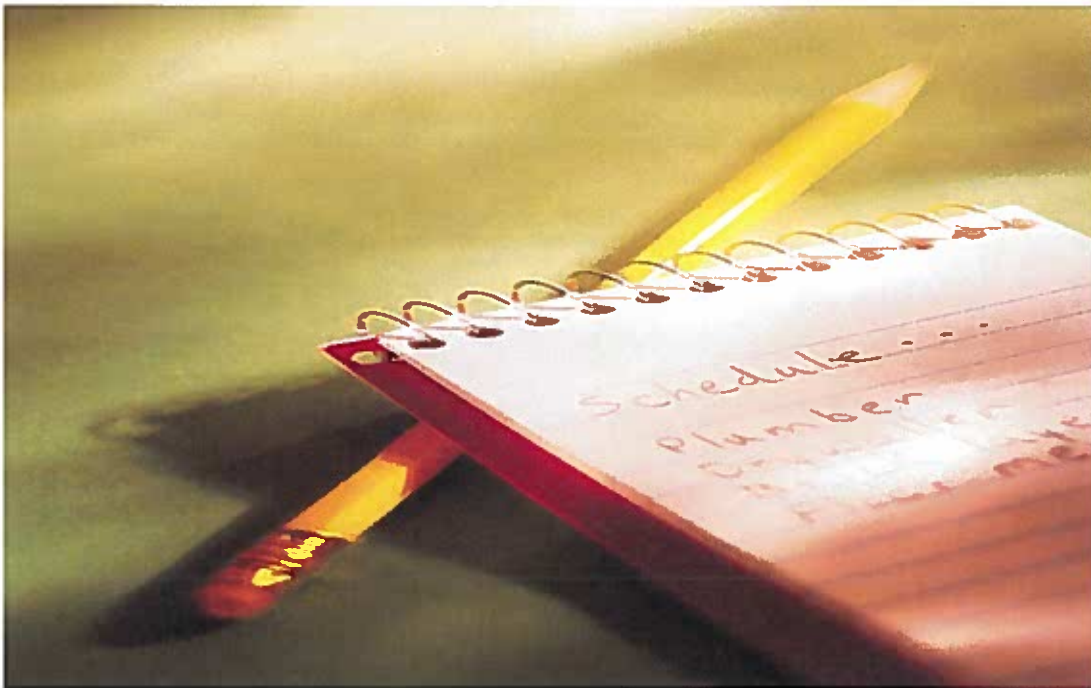
DISTRIBUTION: COE (FOR BVA USE ONLY)
Director, Compensation and Pension Service (21)

EXHIBIT B

DEPARTMENT OF VETERANS AFFAIRS

**Board of Veterans' Appeals
Washington DC 20420**

Office of Management, Planning and Analysis Correspondence Guide



September 2011

***Disclaimer:** All references to Joe Snuffy, C 22 222 222 is a dummy record created by BVA for training and development purposes. Any screen prints or correspondence samples do not necessitate redaction.*

Table of Contents

Preface	1
General Correspondence Guidelines.....	1
“In Reply To” Identifiers	1
Name and VA File Number Indenters	2
Courtesy Copies	2
Who Do I Write To?	3
Attachment to VACOLS and Dispatch.....	3
What Correspondence Template to Use	3
Index of MPA Templates.....	6
3230.....	6
903 Extension Request	6
Advance on Docket (AOD) No Appeal Received At the Board Letter	7
Advance on Docket (AOD) No Appeal Received At the Board (Post-Remand) Letter.....	7
Advance on Docket (AOD) Denial Letter – Long	7
Advance on Docket (AOD) Denial Letter –Short.....	7
Advance on Docket (AOD) Grant Letter.....	7
Advance on Docket (AOD) Partial Grant, Administrative Error Letter	8
Advance on Docket (AOD) Grant VC Motion.....	8
Appeal Notification - Original Appeal Letter.....	8
Appeal Notification- Post Remand Appeal Letter	8
BVA Fax Cover.....	8
BVA Motion Ruling Sheet.....	9
CUE Appellant Notice Letter	9
CUE Board Motion Notice Letter	9
CUE Representative Notice Letter	10
Dispatch Cover Letter - BVA Sent To Wrong Address.....	10
Dispatch Cover Letter - Change in Address.....	10
Dispatch Cover Letter - Request to Re-mail Decision.....	10
Dispatch Cover Letter - Returned As Undeliverable.....	10
Dispatch Cover Letter	11
Dispatch Cover Letter - Congressional Copy.....	11
ECA Hearing Notification Letter	11
ECA Notification Letter	11

ECA Revocation Letter	12
ECA Waiver Letter	12
Extension Letter	12
FL 1-13 Memo	12
Hearings - 2nd Hearing Request, Denied After FTR (Failure to Report) Letter	13
Hearings - 2nd Hearing Request, Denied Letter	13
Hearings - 2nd Hearing Request, Granted After FTR Letter	13
Hearings – Baltimore RO Hearing Clarification Letter	13
Hearings – Extension of Time to Submit Evidence, General Letter	13
Hearings – Hearing Clarification Letter	14
Hearings - Incarcerated Appellant Letter.....	14
Hearings – Lost or Inaudible Tape Letter.....	14
Hearings – Motion to Correct Transcript, Denial Letter	15
Hearings – Motion to Correct Transcript, Grant Letter.....	15
Hearings – Motion to Reschedule Granted For Timeliness Letter.....	15
Hearings - Request for Transcript Letter	15
Hearings - Travel Board Hearing Notification Letter	15
Hearings - VLJ No Longer At BVA Letter.....	15
Hearings - CO - Contested Claim - Insurance - Appellant Letter	16
Hearings - CO - Contested Claim - Insurance - Appellee Letter	16
Hearings - CO - Contested Claim - Appellant Letter	16
Hearings - CO - Contested Claim - Veterans Letter.....	17
Hearings - CO - Reschedule By BVA Letter	17
Hearings - CO - Reschedule By Vet Letter.....	17
Hearings - CO - Standard Hearing Letter	17
Hearings - CO - Vacate Letter	18
Insurance – Contested Claim Denial Letter	18
Insurance – Contested Claim Granted Letter	18
Insurance – Non-Contested Claim Letter	18
LaPointe 014 Letter	19
Money or Gifts Sent To Te Board	19
NOD Letter.....	19
PAMPHLET – Cover letter.....	20
PT-VSO Letter	20
Rebuilding Records Request, Notification to Appellant Letter.....	20

Rebuilding Records Request to RO Letter.....	20
Representation - Clarification Letter	21
Representation - No POA Letter	21
Representation - POA Revoked Letter	21
Representation - Two POA Letter	22
ROC_F119 - Report of Contact, VA Form 119.....	22
Stanley Debarment Letter	22
Substantive Appeal Letter	23
Temporary Transfer Letter	23
Translation Request - Non-Spanish Letter.....	23
Translation Request - Spanish Letter	24
Vargas Denial Letter	24
Vargas Grant Letter	24
Waiver of New Evidence Letter.....	25
Waiver of Timeliness Letter	25

Preface

- This manual is a *living document*. Revisions to correspondence text and new correspondence will be necessary due to new regulatory requirements, revisions in practices and procedures and evolving needs. All Office of Management, Planning and Analysis correspondence templates are stored on the "Administrative Support" tab.

General Correspondence Guidelines

- When preparing correspondence for the Board of Veterans' Appeals, regardless of signatory, it is critical to remember BVA is a legal body and all correspondence issued by the Board is a legally binding document. BVA-generated correspondence is subject to the provisions of the Privacy and Freedom of Information Acts.
- All template correspondence has been reviewed and legally sanctioned by the Chief Counsel for Operations. There are a finite set of responses and it is best to respond on behalf of the Board with the available correspondence templates. There may be limited occasions where the need for idiosyncratic language is needed, based on the needs of a case-specific matter. It is imperative to use good judgment and discretion when crafting language idiosyncratic to a specific case or concern.
- All BVA-generated correspondence must be prepared under BVA letterhead; either the Charmin's letterhead or BVA letterhead. The templates are designed with the appropriate letterhead in place.
- The **body** of all correspondence is prepared with the font style and size of Arial 12.
- When preparing a new letter, *never* use the "cut n' paste " method - *always* generate a *new template* to avoid error.

"In Reply To" Identifiers

- When preparing any correspondence where there is the following citation in the upper right third of a template:
In Reply Refer To:
 - It is considered standard practice to use two (2) spaces after the colon mark, the BVA Office of Management, Planning and Analysis mail symbol (014), your office acronym followed by your employee number. This identification assists others to distinguish correspondence writers and office affiliation.

- The Office of Management, Planning and Analysis Offices are identified as follows:

- ✚ Office of the Director, Management, Planning & Analysis (014)
- ✚ Administrative Support Division (014ASD)
- ✚ Decision Team Support Division (014DSD)
- ✚ Financial Management Division (014FMD)
- ✚ Case Support Branch (014CSB)
- ✚ Clerical Support Branch (014CLB)
- ✚ Hearing Branch (014HRGB)
- ✚ Dispatch Branch (014DISB)
- ✚ Case Management Branch (014CMB)

- Each Division and Branch Chief and team leader has an electronic copy of all MPA employee correspondence numbers. *Know yours and do not use a correspondence number that is not yours, as it is unethical.*

Name and VA File Number Indenters

- Directly under the “In Reply To” identifier, correspondence writers should always cite the veteran’s VA file number (C or SS) as cited in VACOLS **and on** the right margin of the claims folder.
- If the Veteran has a C number *and* a SS number, use the C number.
 - ✚ C numbers should not be identified with leading "O's".
 - ✚ SS numbers should be identified with leading "O's".
 - ✚ SS number sequence and spacing is to be cited as:

SS 123 45 6789

- If the *Veteran is deceased* and the agency of original jurisdiction (AOJ) has cited the Veteran as deceased, cite the file number with a leading “XC” or “XSS”. VACOLS *will not* state the “X” identifier, the claims folder **will**.
- *When writing to parties other than the Veteran* (i.e., Member of Congress, the representative of record or an appellant other than the Veteran), the Veteran’s name (formatted in the example below) should be identified directly underneath the file number.

SNUFFY, Joe C., Jr.

Courtesy Copies

- *When writing to the appellant*, always provide a courtesy copy to the Washington DC-based Veterans Service Organization (co-located at BVA). The

one exception to this rule of thumb is preparation and dispatch of the Appeal Notification Letter. The Board ***does not*** provide courtesy copies to field-based Veterans Service Organizations (VSO).

- If the appellant is represented by a VSO not located at the Board or by a private individual, provide a courtesy copy to that representative of record.
- There are no courtesy copies provided to a Member of Congress - do not "cc" a Member of Congress, prepare a separate letter..
- The Board provides courtesy copies to the VA field station as the agency of original jurisdiction ***when BVA is not in custody of the case.***

Who Do I Write To?

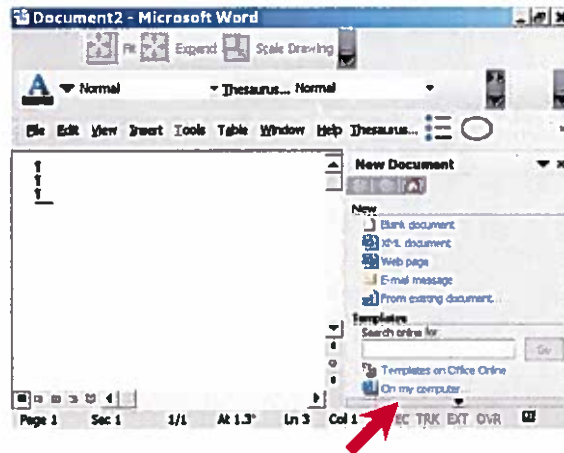
- With the exception of Congressional correspondence, respond to the appellant with a courtesy copy to the representative, if any, ***regardless of the moving party.***
- *Be aware* of Privacy Act matters as they apply to a contested claim.

Attachment to VACOLS and Dispatch

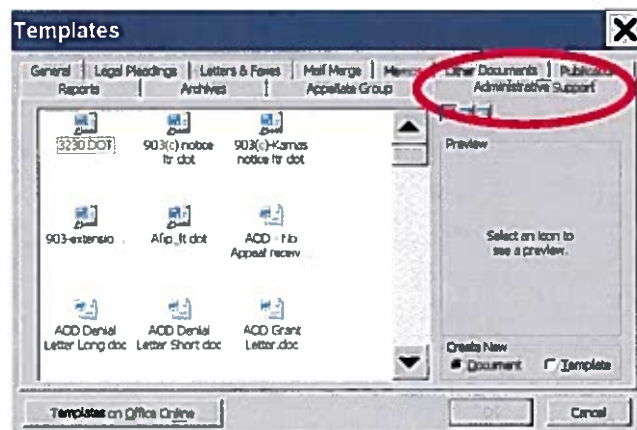
- *It is BVA practice to attach an electronic copy of all BVA-generated correspondence to VACOLS the day correspondence is date-stamped and dispatched.* See the VACOLS User Guide, "Attachments" tab,

What Correspondence Template to Use

- In concert with the Office of Management, Planning and Analysis (MPA), the Office of the Chief Counsel for Operations has arranged legally sanctioned language for all MPA-generated correspondence. These templates can be located in MS Word.
- Click "File", "New". On the right side of the screen, the window below will appear. From the "Templates" selections, click on "On my computer" as displayed below;

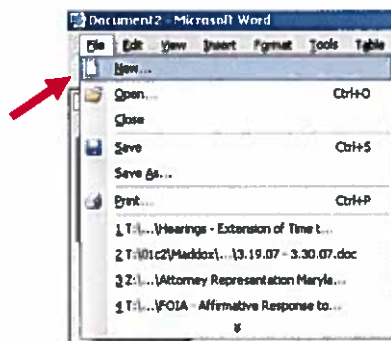


- When “On my computer” is accessed, the following template screen will appear. click on the “Administrative Support” tab to reveal the following icon selections:
- MPA users should ensure the tab titled “Administrative Support” is accessed in order to see the MPA templates.

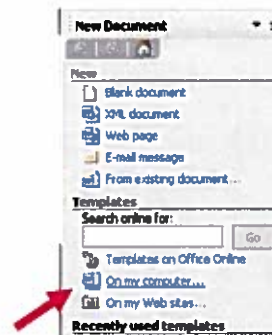


- Or, depending on your PC set-up:

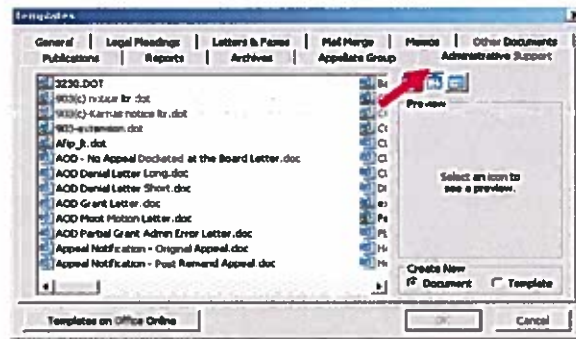
Step #1



Step #2



Step #3



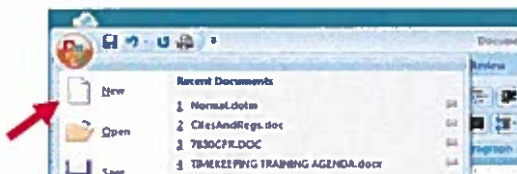
- Or, when using Microsoft Office 2007:
- Select the “Start” button from your desktop, select “Programs”, then select Microsoft Office Word 2007, as shown below



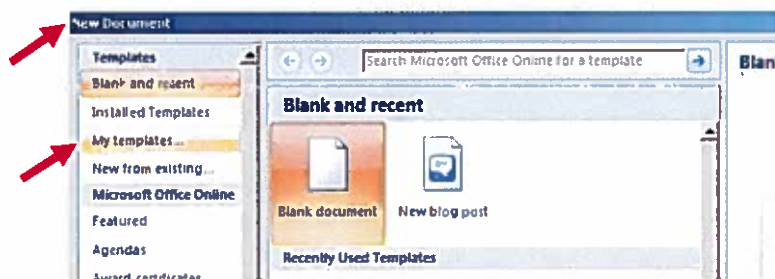
- The “Document1 – Microsoft Word” window below will open



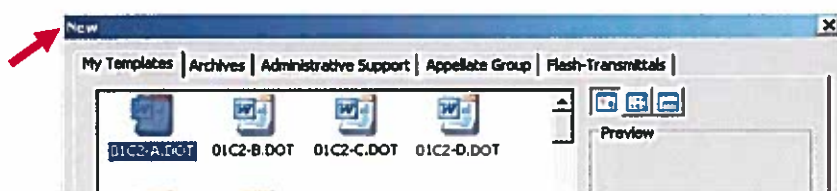
- Click the “Office Button” to access word documents, and the “Word Options” window below will open



- Select “New” to open a word document, and “New Document” window below will open



- Select “My templates”, and “New” window below will open



- Select the “Administrative Support” tab and the MPA Templates as below will appear



- MPA users should ensure the tab titled “Administrative Support” is accessed in order to see the MPA templates

Index of MPA Templates

- The following index provides a listing of MPA-generated correspondence as of this publication date. All templates can be found on-line. What follows is an explanation of purpose and use for each template.

3230

- All Board employees use this template as a routing transmittal for cases and other documents. When transmitting information regarding case-specific matters, always cite the appellate identifiers (VA file number and name) under "Remarks".

903 Extension Request

- This template is used when the Veterans Law Judge (VLJ or Judge) is considering an issue or law the field station did not consider (i.e.), the field

rated the disability under one diagnostic code and the Board wishes to rate the disability under another diagnostic code that was in existence when the field had the case.

- It is typically prepared by co-located administrative support staff associated within the Decision Team Support Division after VLJ review.
- This template has pre-programmed prompts. It is recommended to follow the prompts through to completion.
- Note: the case is to be held in abeyance for the specified number of days (see the VACOLS User Guide for diary controls).

Advance on Docket (AOD) No Appeal Received At the Board Letter

- This template is used when a motion to advance is filed (see C.F.R. § 20.900) and the appeal has not been assigned a docket number.
- It is prepared by designated administrative support staff for signature by the Chief, Decision Team Support Division.

Advance on Docket (AOD) No Appeal Received At the Board (Post-Remand) Letter

- This template is used when a motion to advance is filed (see C.F.R. § 20.900) and the appeal is in the RO custody and jurisdiction.
- It is prepared by designated administrative support staff for signature by the Chief, Decision Team Support Division.

Advance on Docket (AOD) Denial Letter – Long

- This template is used by designated administrative support staff when a VLJ rules to deny a motion to advance due to little or no documentation to support the motion or little or no basis in compliance with the requisites in which the Board will entertain such (see C.F.R. § 20.900).

Advance on Docket (AOD) Denial Letter –Short

- This template is used by designated administrative support staff when a VLJ rules to deny a motion to advance based on inadequate supporting documentation, regardless of the basis for the motion. (See C.F.R. § 20.900).

Advance on Docket (AOD) Grant Letter

- This template is used by designated administrative support staff when a VLJ rules favorably to allow a motion to advance based on sufficient reason and documentation to expeditiously decide the appeal (see C.F.R. § 20.900).

Advance on Docket (AOD) Partial Grant, Administrative Error Letter

- This template is used by designated administrative support staff when a VLJ rules on a motion to advance based on evidence of record of an earlier substantive appeal (VAF 9) in a claims folder.
- Note: When a ruling to grant advancement on the docket due to administrative error is rendered, an earlier docket number must be created by the Advance on Docket Coordinator in order to assign a docket number commensurate with the earlier VAF 9. A new Appeals Cover must also be printed to reflect the same.

Advance on Docket (AOD) Grant VC Motion

- This template is used by designated administrative support staff when the Vice Chairman on the Board's own motion rules to advance on the docket based on "advanced age" which is defined as 75 or more years of age. 38 C.F.R. § 20.900(c), and is prepared for the Vice Chairman's signature.

Appeal Notification - Original Appeal Letter

- This template is embedded in the VACOLS programming when an original appeal arrives at the Board and the initial case review/data entry has been conducted, typically by the Case Support or Hearing Branches. The letter advises the appellant (pursuant to the field notification of transfer to BVA) the Board is in custody of the claims folder for appellate consideration.

Appeal Notification- Post Remand Appeal Letter

- This template is embedded in the VACOLS programming when a post remand appeal (*subsequent to developmental action*) arrives at the Board and the initial case review/data entry has been conducted, typically by the Case Support or Hearing Branches. The letter advises the appellant (pursuant to the field notification of transfer to BVA) that the Board is in custody of the claims folder for appellate consideration.

BVA Fax Cover

- This template is used by any staff member.

BVA Motion Ruling Sheet

- This template is for use by any staff member who prepares rulings of any sort.
- It is an internal working document used prior to preparation of ruling correspondence signed for dispatch to a moving party and attachment to VACOLS.
- This is an Acrobat Reader PDF file. Access ability is through a hyperlink. When clicking on the icon, follow the hyperlink instructions to gain entry to the ruling sheet.

CUE Appellant Notice Letter

- This template is embedded in the VACOLS programming when a motion for Clear and Unmistakable Error (CUE) has been received (see C.F.R. § 20.1404).
- When the letter is generated in VACOLS under "Processes", "Add CUE", VACOLS will prompt the user in processing actions subsequent to the correspondence.
- The letter is prepared by the co-located administrative support staff associated within the Decision Team Support Division to acknowledge receipt of the motion for CUE and advises of the docket number assigned to the claim.
- The record must be held in abeyance for the requisite period of time, using the "C" diary indicator (see the "VACOLS User Guide").

CUE Board Motion Notice Letter

- This template is used when, upon appellate review, a VLJ determines, on the Board's own motion, a claim for CUE is in order. The template is embedded in the VACOLS programming (under the "Processes" menu, "Add CUE" selection) when a CUE record is added based on a VLJ request (see C.F.R. § 20.1400).
- Note there are attachments to this letter.
- The letter advises the appellant of the assigned docket number for the CUE claim and provides a period of time to submit evidence pursuant to the claim.
- It is prepared by the co-located administrative support staff associated within the Decision Team Support Division.
- The record must be held in abeyance for the requisite period of time, using the "C" diary indicator (see the "VACOLS User Guide").

CUE Representative Notice Letter

- This template is prepared to the accredited representative of record simultaneously upon preparation of the CUE notice to the appellant letter. The template is embedded in the VACOLS programming (under the "Processes" menu, "Add CUE" selection).
- The letter is prepared by the co-located administrative support staff associated within the Decision Team Support Division to acknowledge receipt of the motion for CUE to the representative, advises of the docket number assigned to the claim and provides notice to the representative of the opportunity to review the claims folder.
- The record must be held in abeyance for the requisite period of time using the "E" diary indicator (see the "VACOLS User Guide").

Dispatch Cover Letter - BVA Sent To Wrong Address

- This template is used when a Board decision is outcoded and dispatched by the Dispatch Branch.
- When the Board has been notified that a decision has been mailed to the wrong appellant, the correct decision is re-mailed to the correct address with the following cover letter.

Dispatch Cover Letter - Change in Address

- This template is used when a Board decision is outcoded and dispatched by the Dispatch Branch.
- When the Board has been notified that a decision has been mailed to an incorrect address, the correct decision is re-mailed to the correct address with the following cover letter.

Dispatch Cover Letter - Request to Re-mail Decision

- This template is used when a Board decision is outcoded and dispatched by the Dispatch Branch.
- When the Board has received a request from an appellant for another copy of its decision, the following cover letter is prepared with a duplicate decision copy.

Dispatch Cover Letter - Returned As Undeliverable

- This template is used when a Board decision is outcoded and dispatched by the Dispatch Branch.
- When the Board has been advised its decision was mailed to an address and the decision was returned as undeliverable, staff are required to seek all possible avenues to obtain a current and accurate address for the appellant.
- When a current and accurate address is obtained, the following cover letter is prepared with a duplicate decision copy.

Dispatch Cover Letter

- This template is used when a Board decision is outcoded and dispatched by the Dispatch Branch.
- It is embedded in the VACOLS programming and is automatically generated upon electronic dispatch of an appeal.
- It has the Division Chief's signature scanned into the signatory.

Dispatch Cover Letter - Congressional Copy

- This template is used when a Board decision is outcoded and dispatched by the Dispatch Branch.
- The letter is embedded in the VACOLS programming when Congressional interest is of record on the "Mail" tab to ensure the Congressperson receives not only a copy of their constituent's decision, but a cover letter under the Chairman's signature advising them of the Board's decision.

ECA Hearing Notification Letter

- This template is used by the ECA Hearing Coordinator to schedule an appellant for a Board hearing pursuant to an appellant's participation in the Expedited Claims Adjudication (ECA) initiative. For further information regarding the ECA initiative, see Chairman's Memorandum No. 01-10-14 dated April 9, 2010.

ECA Notification Letter

- This template is used by the Case Review Section, Case Support Branch, and Administrative Support Division upon receipt and case review activity to inform the appellant their ECA appeal has been received at the Board.

ECA Revocation Letter

- This template is used by the ECA Administrator to notify an appellant and representative (if any) when any of the reasons identified in the revocation letter have been met. The ECA Administrator will enter a check mark next to the appropriate reason for the revocation. The ECA check is removed from the "Dispatch" tab in VACOLS and the appropriate diary indicator is added to VACOLS in compliance with Chairman's Memorandum N. 01-10-14.

ECA Waiver Letter

- This template is used by the ECA Administrator to notify when evidence solicited and received by the Department of Veterans Affairs is of record in an appeal. A copy of the evidence is provided in the waiver letter as well as a notice regarding if the appellant chooses to waive review by the agency of original jurisdiction or not. The case is held in abeyance for 30 days pending a response.

Extension Letter

- This template is used when a VLJ has ruled favorably on a motion submitted by any moving party for an extension of time to submit additional arguments/evidence pursuant to C.F.R. § 1304(b).
- This template has pre-programmed prompts. It is recommended to follow the prompts through to completion.
- It is typically prepared by the co-located administrative support staff associated within the Decision Team Support Division.

FL 1-13 Memo

- This template is used by OMPA staff when correspondence is returned to the agency of original jurisdiction (AOJ) i.e., VA Regional Office (VARO),
- When using this template, it must be date stamped with the date of release, have the Veteran identifiers penned and the appropriate checkbox annotated.
- It is always disposed of and closed by using Mail Action code "05" (see the "BVA VACOLS User Guide", "Mail" tab).

Hearings - 2nd Hearing Request, Denied After FTR (Failure to Report) Letter

- This letter is used when a motion has been filed (ruling by the presiding Judge is to deny the motion) pursuant to a second request for a travel Board hearing [can be used for any hearing venue] subsequent to the appellant not appearing at the first scheduled hearing (see C.F.R. § 20.704(c)).
- It is prepared by the Hearing Branch staff.

Hearings - 2nd Hearing Request, Denied Letter

- This template is used when a motion has been filed (ruling by the presiding Judge is to deny the motion) where a second hearing has been requested on the same appeal where an initial Travel Board hearing [this letter can be used for any BVA hearing venue] has already been held. (See C.F.R. § 20.700(a)).
- It is prepared by the Hearing Branch staff.

Hearings - 2nd Hearing Request, Granted After FTR Letter

- This letter is used when a motion has been filed (ruling by the presiding Judge is favorable) pursuant to a second request for a travel Board hearing [can be used for any hearing venue] subsequent to the appellant not appearing at the first scheduled hearing (see C.F.R. § 20.704(c)).
- It is prepared by the Hearing Branch staff.

Hearings – Baltimore RO Hearing Clarification Letter

- This template is used when an appeal is adjudicated from VARO Baltimore, Maryland and the appellant has requested a travel Board hearing.
- Due to the proximity of Baltimore, Maryland to Washington, DC; BVA does not offer travel Board hearings at the Baltimore station. As a result, a hearing clarification letter must be generated to solicit the appellant's hearing desires.
- It is prepared by the Hearing Branch staff.
- It is retained in an abeyance status for the requisite period of time (see the "VACOLS User Guide").

Hearings – Extension of Time to Submit Evidence, General Letter

- This template is used by members of the Hearing Branch and prepared when a VLJ has ruled favorably on motion at a hearing (regardless of venue) for an extension of time to submit additional arguments/evidence in support of an appeal
- The case is held in abeyance (diary indicator "A") with appropriate diary text for the period of time allotted to await a response or until the time permitted has expired. See the "BVA VACOLS User Guide".

Hearings – Hearing Clarification Letter

- This template is used when there is ambiguity or duality in the evidence of record as to the appellant's request for a BVA hearing request. It is prepared to clarify the appellant's hearing desires.
- *It is* not to be used when an appeal is adjudicated out of the Baltimore VARO.
- The case is held in abeyance (diary indicator "A") with appropriate diary text for the period of time allotted to await a response or until the time permitted has expired. (See the BVA VACOLS User Guide").
- The hearing clarification letter is not limited for preparation by any particular section of the Office of Management, Planning and Analysis.

Hearings - Incarcerated Appellant Letter

- This template is used when an appellant has requested a hearing before the Board and the evidence record indicates the appellant may be incarcerated. The Board will solicit the appellant to ascertain his /her hearing desires
- It is typically, prepared by the Hearing Branch staff.
- The case is held in the Hearing Branch's abeyance file bank (diary indicator "A") with appropriate diary text for the period of time allotted to await a response or until the time permitted has expired. (See the "BVA VACOLS User Guide").

Hearings – Lost or Inaudible Tape Letter

- This template is used by the Hearing Branch when it has determined Board taped testimony (regardless of hearing venue) cannot be transcribed due to inaudible testimony or the tape cannot be located.
- The appellant must be contacted to ascertain if he/she wishes another hearing or to proceed with the evidence of record.

- The case is held in abeyance for the appropriate time with necessary diary text (see the “VACOLS User Guide” for details regarding electronic controls).

Hearings – Motion to Correct Transcript, Denial Letter

- This template is used by the Hearing Branch when the Board has received a motion for correction of a Board hearing (regardless of venue) transcript and the presiding Judge has ruled to deny the motion.

Hearings – Motion to Correct Transcript, Grant Letter

- This template is used by the Hearing Branch when the Board has received a motion for correction of a Board hearing (regardless of venue) transcript and the presiding Judge has ruled to grant the motion.

Hearings – Motion to Reschedule Granted For Timeliness Letter

- This template is used by the Hearing Branch when the Board has received a motion to reschedule a travel Board hearing [can be used for any hearing venue] after one (1) postponement and the presiding Judge has ruled to grant the motion.

Hearings - Request for Transcript Letter

- This template is used by the Hearing Branch when an appellant has made a request for a copy of the hearing transcript of his/her BVA hearing.

Hearings - Travel Board Hearing Notification Letter

- This template is used by the Hearing Branch when an upcoming travel Board trip (Judges and hearings have been scheduled) is set to take place and the Hearing Branch advises the field station of salient travel Board policy with respect to stated procedures.

Hearings - VLJ No Longer At BVA Letter

- This template is used to solicit an appellant for a new hearing when a request is made in a *non-original* appeal (typically, limited to, post remand appeals) where the signing Judge of the previous decision is no longer serving at BVA. The letter *is also* used when a Board hearing has been conducted, the decision has yet to be rendered and the presiding Judge is no longer serves at the Board. See C.F.R. § 20.717.

- The letter is typically, but not always used by the Hearing Branch staff.
- The nature of the solicitation requires the case to be held in an abeyance location for the requisite time awaiting a response or until the abeyance period has elapsed. See the "BVA VACOLS User Guide".

Hearings - CO - Contested Claim - Insurance - Appellant Letter

- This template is used by the Hearing Branch and prepared when *an appellant* who is party to a contested *insurance* claim is scheduled for a Central Office hearing before the Board in Washington DC.
- It provided notification of time, date and location of the testimony date. Directions and a map are included as attachments.
- This template is embedded in the Hearing Branch-specific VACOLS programming when a hearing date is selected.

Hearings - CO - Contested Claim - Insurance - Appellee Letter

- This template is used by the Hearing Branch and prepared when an *appellate* who is party to a contested *insurance* claim is scheduled for a Central Office hearing before the Board in Washington DC.
- It provided notification of time, date and location of the testimony date. Directions and a map are included as attachments.
- This template is embedded in the Hearing Branch -specific VACOLS programming when a hearing date is selected.

Hearings - CO - Contested Claim - Appellant Letter

- This template is used by the Hearing Branch and prepared when *an appellant* who is party to a contested claim is scheduled for a Central Office hearing before the Board in Washington DC.
- It provided notification of time, date and location of the testimony date. Directions and a map are included as attachments.
- This template is embedded in the Hearing Branch specific VACOLS programming when a hearing date is selected.

Hearings - CO - Contested Claim - Veterans Letter

- This template is used by the Hearing Branch and prepared when *a Veterans* who is party to a contested claim is scheduled for a Central Office hearing before the Board in Washington DC.
- It provided notification of time, date and location of the testimony date. Directions and a map are included as attachments.
- This template is embedded in the Hearing Branch-specific VACOLS programming when a hearing date is selected.

Hearings - CO - Reschedule By BVA Letter

- This template is used by the Hearing Branch and prepared when, due to unforeseen circumstances, *the Board has chosen* to reschedule the appellant for a Central Office hearing.
- It provided notification of the *reschedule* time, date and location of the testimony date. Directions and a map are included as attachments.
- This template is embedded in the Hearing Branch-specific VACOLS programming when a hearing date is selected.

Hearings - CO - Reschedule By Vet Letter

- This template is used by the Hearing Branch and prepared when an appellant or representative has requested a previously scheduled Board hearing to be rescheduled under the provisions of 38 C.F.R. 20.§ 702 (c) (1), (2) and 38 C.F.R. 20.§ 702 (d).
- It provided notification of the *reschedule* time, date and location of the testimony date. Directions and a map are included as attachments.
- This template is embedded in the Hearing Branch-specific VACOLS programming when a hearing date is selected.

Hearings - CO - Standard Hearing Letter

- This template is used by the Hearing Branch and prepared when a hearing before the Board in Washington, DC has been requested, scheduled and the appellant requires notification of time, date and location of the testimony date.

- Directions and a map are included as attachments.
- This template is embedded in the Hearing Branch-specific VACOLS programming when a hearing date is selected.

Hearings - CO - Vacate Letter

- This template is used by the Hearing Branch and prepared when a previous Board decision has been rendered and is subsequently determined a Board hearing has not been held for the appellant. In those situations, another hearing is scheduled. If the appellant appears, the previous Board decision is vacated and a de novo decision entered. If the appellant does not appear, the previous Board decision stands

Insurance – Contested Claim Denial Letter

- This template is used by the co-located administrative support staff associated within the Decision Team Support Division when an insurance appeal has been denied with contested appellants.
- Note the letter must be dispatched by certified mail.
- This template is used *in lieu of* the Dispatch Cover Letter in situations where an insurance claim with at least two (2) contesting appellants is at issue.

Insurance – Contested Claim Granted Letter

- This template is used by the co-located administrative support staff associated within the Decision Team Support Division when an insurance appeal has been granted with contested appellants.
- Note the letter must be dispatched by certified mail.
- This template is used *in lieu of* the Dispatch Cover Letter in situations where insurance claim involving two (2) contesting appellants.

Insurance – Non-Contested Claim Letter

- This template is used by the co-located administrative support staff associated within the Decision Team Support Division when a non-contested insurance appeal has been decided by the Board.
- Note the letter must be dispatched by certified mail.

- This template is used *in lieu of* the Dispatch Cover Letter in situations where an insurance claim is at issue.

LaPointe 014 Letter

- This template is used by MPA staff when the appointment of representation is to former private attorney Mr. Robert A. LaPointe. Mr. LaPointe is no longer practicing before the Department of Veterans Affairs and any appointment of him must be clarified with the appellant.
- The template has pre-programmed prompts. It is recommended to follow the props through to completion.
- Note: there are enclosures to be associated with this letter.
- Note: the case is to be held in abeyance for 30 days (see the “VACOLS User Guide” for diary controls).

Money or Gifts Sent To Te Board

- This template is used by MPA staff when a gift or money (in any form, typically received by check or cash) is received by the Board.
- We are prohibited to accept any gift or financial compensation for fulfilling our official duties as Federal government employees in accordance with 5 C.F.R. §2635.202(a).
- The template has some pre-programmed text and it is recommended to use/delete the appropriate language appropriate to what is received.

NOD Letter

- This template is used when the Veterans Law Judge (VLJ) has reviewed a case and determined an issue or issues has a jurisdictional defect with respect to the timeliness of the Notice of Disagreement (NOD). The result is a solicitation to the appellant to provide him/her the opportunity to submit evidence or request a hearing on the issue at question.
- It is typically prepared by co-located administrative support staff associated within the Decision Team Support Division after VLJ review.
- This template has pre-programmed prompts. It is recommended to follow the props through to completion.

- There are enclosures associated with this template for mailing to the appellant as well as a routing/transmittal to utilize post abeyance.
- The case must be held in abeyance until the time requisite has been met. See the "VACOLS User Guide" for electronic controls.

PAMPHLET – Cover letter

- This template is used primarily by the Clerical Support Branch Mail Section when an appellant has requested a "How Do I Appeal" pamphlet.

PT-VSO Letter

- This template is used primarily by the Case Support Branch (sometimes used by the Hearing Branch) when a case is received at the Board for appellate consideration, there is no formal BVA hearing activity and the representative of record is a part-time Veterans Service Organization (VSO). See the on-line listing titled "BVA-Based Veterans Service Organization (VSO) Groups" for the asterisked VSOs who retain office space at BVA, however, they are not in full-time residence.
- The template notifies those part-time VSO of case available for their review and submission of an informal hearing presentation (IHP).
- The template has pre-programmed prompts and it is recommended to follow the prompts to completion.

Rebuilding Records Request, Notification to Appellant Letter

- This template is used by the Office of Management, Planning and Analysis designee when a case file is supposed to be in Board custody for appellate review and has been determined BVA is no longer in control. This determination is typically rendered by final reconciliation results of a Board-wide inventory.
- When the Director has deemed it necessary, designated staff will initiate steps to rebuild the case file (see the on-line guidance titled "Rebuilding Records")?

Rebuilding Records Request to RO Letter

- This template is used by the Office of Management, Planning and Analysis designee when a case file is supposed to be in Board custody for appellate review and has been determined BVA is no longer in control. This letter follows the preceding letter to request the agency of original jurisdiction (AOJ) to begin rebuilding the case file.

- Note the need for a "Y" diary and follow-up controls for this category of cases (see the "VACOLS User" Guide", "Diary Tab" for the need of the "Y" diary indicator.

Representation - Clarification Letter

- All appellants have the right to representation. See the on-line guidance titled "Matters of Representation".
- This template is used by any employee of the Office of Management, Planning and Analysis when clarification of representation is in order. Clarification typically results when the appellant cites a desire for representation.
- There id is pre-printed (prepare an envelope with your name and address on it) to be enclosed for a return response.
- The case must be held in abeyance for the requisite period of time see the "BVA VACOLS User Guide").

Representation - No POA Letter

- All appellants have the right to representation. See the on-line guidance titled "Matters of Representation".
- This template is used by any employee of the Office of Management, Planning and Analysis when there is evidence of record of some involvement of representation; however, there is no formal appointment of representation.
- There id is pre-printed (prepare an envelope with your name and address on it) to be enclosed for a return response.
- The case must be held in abeyance for the requisite period of time (see the "BVA VACOLS User Guide").

Representation - POA Revoked Letter

- All appellants have the right to representation. See the on-line guidance titled "Matters of Representation".
- This template can be used by any employee of the Office of Management, Planning and Analysis when there is a revocation of power of attorney *prior to certification to the Board* and offers the appellant representation. If the revocation is *subsequent to certification to the Board*, the Senior Deputy Vice Chairman must rule on the authority to revoke.

- There id is pre-printed (prepare an envelope with your name and address on it) to be enclosed for a return response.
- The case must be held in abeyance for the requisite period of time (see the "BVA VACOLS User Guide").

Representation - Two POA Letter

- All appellants have the right to representation. See the on-line guidance titled "Matters of Representation".
- This template can be used by any employee of the Office of Management, Planning and Analysis when there is evidence of record of a *more than one representative involved* in an appeal before the Department of Venetians Affairs.
- There id is pre-printed (prepare an envelope with your name and address on it) to be enclosed for a return response.
- The case must be held in abeyance for the requisite period of time (see the "BVA VACOLS User Guide").

ROC_F119 - Report of Contact, VA Form 119

- This template can be used by any employee of the Office of Management, Planning and Analysis whenever contact (typically by telephone) is made with a party to an appeal before the Board.
- The template has pre-programmed prompts and it is recommended to follow the prompts to completion,

Stanley Debarment Letter

- This template can be used by any employee of he Office of Management, Planning and Analysis when there is evidence of record private attorney Mr. James W. Stanley is acting as the appellant's representative before the Board. Mr. Stanley has been barred from practice before the Department of Veterans Affairs and the Board is required to solicit the appellant offering other representation.
- There id is pre-printed (prepare an envelope with your name and address on it) to be enclosed for a return response.

- There are pre-programmed prompts associated with this template and it is recommended to follow the prompts to completion.
- The case must be held in abeyance for the requisite period of time (see the "BVA VACOLS User Guide").

Substantive Appeal Letter

- This template is used (typically) by co-located administrative support staff associated within the Decision Team Support Division subsequent to appellate review by a BVA Counsel or Judge. When, during appellate review, an attorney determines an issue has been raised and developed to an extent, there is no VA Form 9 The template explains the need for a VA form 9 (Substantive Appeal) and solicits the appellant regarding submission of evidence or arguments concerning the issue raised.
- There are pre-printed (prepare an envelope with your name and address on it) to be enclosed for a return response.
- There are pre-programmed prompts associated with this template and it is recommended to follow the prompts to completion.
- The case must be held in abeyance for the requisite period of time (see the "BVA VACOLS User Guide").

Temporary Transfer Letter

- This template can be used by any employee of the Office of Management, Planning and Analysis when a request from a VA field station has been made to temporarily transfer a case from BVA custody (typically in order to process a pending claim in the field).
- The letter is embedded in VACOLS and is automatically generated when the "O" diary indicator is created within the "Diary" tab of VACOLS.
- There are pre-programmed prompts associated with this template and it is recommended to follow the prompts to completion.
- The case must be held in abeyance for the requisite period of time (see the "BVA VACOLS User Guide").

Translation Request - Non-Spanish Letter

- This template is used primarily (but is not limited to) by the Case Support Branch staff when a case has been received for initial case review and it is

determined there are documents in the evidence file prepared in a language other than English.

- In order for the Board to properly adjudicate the appeal, all evidence must be in English; therefore, staff must duplicate those documents and transmit them to the designated contractor for translation via the following template.
- The case must be held in abeyance for the requisite period of time (see the "BVA VACOLS User Guide").

Translation Request - Spanish Letter

- This template is used primarily (but is not limited to) by the Case Support Branch staff when a case has been received for initial case review and it is determined there are documents in the evidence file prepared in the Spanish language.
- In order for the Board to properly adjudicate the appeal, all evidence must be in English; therefore, staff must duplicate those documents and transmit them to the designated contractor for translation via the following template.
- The case must be held in abeyance for the requisite period of time (see the "BVA VACOLS User Guide").

Vargas Denial Letter

- This template is used by designated administrative support staff associated with the Advance on Docket (AOD) section when a motion to advance on the Board's docket pursuant to *Vargas-Gonzalez v. Principi*, 15 Vet. App. 222 (2001) has been filed and the ruling denied.
- For further information on this CAVC precedent, see the on-line guidance titled ""Administrative Controls - *Vargas-Gonzalez v. Principi*".

Vargas Grant Letter

- This template is used by designated administrative support staff associated with the Advance on Docket (AOD) section when a motion to advance on the Board's docket pursuant to *Vargas-Gonzalez v. Principi*, 15 Vet. App. 222 (2001) has been filed and the ruling granted.
- For further information on this CAVC precedent, see the on-line guidance titled ""Administrative Controls - *Vargas-Gonzalez v. Principi*".

Waiver of New Evidence Letter

- This template is used (typically) by co-located administrative support staff associated within the Decision Team Support Division subsequent to appellate review by a BVA Counsel or Judge.
- When, during appellate review, an attorney determines additional evidence has been submitted with no lower level of jurisdictional adjudication, the Board solicits the appellant for a waiver of lower level jurisdictional review.
- A copy of the evidence in question must be duplicated and mailed as enclosure with the letter.
- Pre-programmed prompts are associated with the template and it is recommended to follow the prompts to completion,
- The case must be held in abeyance for the requisite period of time (see the "BVA VACOLS User Guide").

Waiver of Timeliness Letter

- This template is used (typically) by co-located administrative support staff associated within the Decision Team Support Division subsequent to appellate review by a BVA Counsel or Judge.
- When, during appellate review, an attorney determines additional evidence has been submitted *more than 90 days of the date of certification to the Board*, the Board solicits a motion from the appellant as to why the additional evidence was not submitted within 90 days of certification (see 38 C.F.R. § 20.1304).
- A copy of the evidence in question must be duplicated and mailed as enclosure with the letter.
- Pre-programmed prompts are associated with the template and it is recommended to follow the prompts to completion,
- The case must be held in abeyance for the requisite period of time (see the "BVA VACOLS User Guide").

EXHIBIT C



DEPARTMENT OF VETERANS AFFAIRS
Board of Veterans' Appeals
Washington DC 20420

In Reply Refer To: 014/BR/#
VA File Number
VETERAN, John A.

John A. Appellant
Street Address
City, State Zip

Dear Mr. Appellant:

This is in response to your correspondence of [insert date of request] concerning your appeal.

The Board of Veterans' Appeals completed its appellate review of your case on [insert decision date], and a copy of that decision was mailed to you. I am pleased to provide you with another copy of that decision.

Sincerely,

Barbara C. Morton
Director, Office of Management,
Planning and Analysis

Enclosure
cc: Representative (if any)